

RHODES, HIERONYMUS, JONES, TUCKER & GABLE, P.L.L.C.
LAWYERS

ONEOK Plaza 100 West 5 th Street, Suite 400 Tulsa, Oklahoma 74103-4287 Telephone (918) 582-1173 Fax (918) 592-3390 www.rhodesokla.com Mailing Address P.O. Box 21100 Tulsa, Oklahoma 74121-1100	Chris L. Rhodes, III Bert M. Jones John H. Tucker Jo Anne Deaton Dan S. Falluo Ann E. Allison Andrew D. Downing Bradley A. Jackson Catin H. Tucker Kerry R. Lewis	Leslie J. Southerland Nathan E. Clark Theresa Noble Hill Margaret M. Clarke Carlye O. Jimerson Bradley S. Shells Lindsay J. McDowell Denelda L. Richardson Maria E. Cervantes	Hal Crouch (1902-1947) Chris L. Rhodes (1902-1966) E. D. Hieronymus (1908-1994) George W. Gable (1918-2000) — Est. 1931 — Daniel D. Draper, III James D. Johnson Of Counsel
--	--	---	--



RhodesHieronymus

O K L A H O M A

Reply to: Theresa Noble Hill
 THill@rhodesokla.com

June 18, 2007

VIA EMAIL & U.S. MAIL

Richard T. Garren
 M. David Riggs
 Riggs Abney Neal Turpen Orbison & Lewis, Inc.
 502 W. 6th Street
 P.O. Box 1046
 Tulsa, OK 74101

Re: *State of Oklahoma v. Tyson*
 Our File No. 1790-2

Dear Richard and David:

We are in receipt and have reviewed Plaintiffs' supplemental objections and responses to Cargill Turkey Production, LLC ("CTP") and Cargill, Inc.'s First Sets of Interrogatories, served the evening of Friday, June 1, 2007.

Plaintiffs' responses refer us to twenty four separate web pages with numerous sub sites and fifty separate multiple page publications. This information may be useful and may contain some information that could be responsive but is of little use as an interrogatory response.

Plaintiffs "withdraw" their Rule 33(d) designation in response to Cargill, Inc. Interrogatories 2, 3, 4, 6 and 16 and CTP Interrogatories 2, 6, 13 and 15. These interrogatory responses remain deficient. Plaintiffs also responded to Interrogatories 3, 5, 7, 8 and 16 with responses "in lieu of" their prior Rule 33(d) designation. The Cargill Defendants do not understand the distinction between "withdraw" and "in lieu of"; even so, the responses remain deficient.

We find the supplemental responses deficient and request that Plaintiffs provide responses to interrogatories as follows:

CTP Interrogatory 1:

Please provide legible copies of OTC 0000005-6, and OTC 0000014-18. Plaintiffs advise that they continue to gather information responsive to this request. It appears that much of the material produced was received by the Attorney General in March of this year. Please advise what additional steps are being taken to provide complete responses to this interrogatory.

Richard T. Garren
M. David Riggs
June 18, 2007
Page 2 of 5

CTP Interrogatory 2:

The response to this interrogatory is a gross generalization. We are aware that there are a number of activities and uses for the land owned by Plaintiffs. As Plaintiffs understand by their search to determine all uses of land by poultry farmers, it is equally important that the Cargill Defendants understand the uses of the land owned by Plaintiffs. Please supplement your response to identify the use of each tract of land identified in Interrogatory 1. Terms such as "but not limited to" and "other public uses" do not clarify the uses of each tract of land. Example: Parcel ID Number 0000-24-17n-225-0-0330-00 consists of __ acres and is utilized by Plaintiffs in the following ways_____.

CTP Interrogatory 3:

Plaintiffs' response to this Interrogatory is unresponsive. Please respond to this Interrogatory by responding to each subpart, "a" through "g", discussing the facts, the witnesses, and the documents leading to your awareness. The Interrogatory utilized the wording "when you first became aware." Your response, on the other hand, utilizes "it has been suspected." Please fully respond to this Interrogatory as it was propounded.

CTP Interrogatories 5 & 6:

Please identify the "various" statutory and regulatory programs referred to in the response. We understand it is various but we want the "various" identified. The response also provides "Examples that include but are not limited to" This statement is not helpful and does not provide the requested information. Our interrogatory does not request examples, but rather requests "all steps".

CTP Interrogatory 7:

The web sites and references to documents do not provide a complete response to this interrogatory. Please provide the trophic state of the lake/reservoir as requested.

CTP Interrogatory 8:

Plaintiffs' response is insufficient. Please provide the "federal water quality standards" violated for each of the three scenic rivers. This is not a request for production; we have reviewed the numerous web sites you provided and while we find them interesting and informative, they do not properly respond to this interrogatory. Plaintiffs commented at the March 23, 2006 hearing that federally approved water quality standards for the three scenic rivers had been violated. Which standards do Plaintiffs believe were violated, when were they violated, and in which body of water were the standards violated?

CTP Interrogatory 15:

The Cargill Defendants are not asking for the data and analysis that the Plaintiffs and their experts and consultants are gathering now. Rather, we are interested in any other facts or evidence supporting the allegations regarding what each Cargill Defendant knew as to how much and how often poultry litter was being applied to fields in the IRW by their growers and what the Cargill Defendants knew regarding exceeding the capacity of the soils and vegetation. This includes facts known to Plaintiffs at the time they filed the First Amended Complaint ("FAC"), as well as any other facts (not expert opinion) identified subsequent to that filing.

Richard T. Garren
M. David Riggs
June 18, 2007
Page 3 of 5

CTP Interrogatory 16:

The Plaintiffs have provided the Cargill Defendants with pages of articles and studies, many not involving land in the IRW. We are interested in what evidence the Plaintiffs possess regarding what the Cargill Defendants did or knew with regards to their growers in the IRW.

The Cargill Defendants have also reviewed Plaintiffs' Supplemental Responses to Cargill Inc.'s First Set of Interrogatories and finds Plaintiffs' responses deficient as well.

In addition to the 74 publications and web pages provided in Plaintiffs' responses to CTP's First Interrogatories, another 100+ publications and web pages are provided as responses to Cargill, Inc.'s First Set of Interrogatories.

Cargill Interrogatory 2:

Cargill's Interrogatory No. 2 requests the Plaintiffs' factual and legal basis for their allegation in the FAC that the Cargill Defendants are responsible for the poultry waste created by their poultry growing operations in the IRW, and the resultant injury. Plaintiffs responded with numerous publications and web pages and with an explanation that Plaintiffs' experts are gathering data and performing analysis. The Cargill Defendants are looking for Plaintiffs' factual and legal basis for their allegations in the FAC specific to them, not generally as to the poultry industry. Please supplement the response to include factual knowledge Plaintiffs had at the time of filing the FAC or any other facts (not expert opinion) identified since that filing.

Cargill Interrogatories 3, 4 & 6:

Again, Interrogatories 3, 4 and 6 do not request what Plaintiffs' experts and consultants are doing on an ongoing basis. Please supplement your response by providing the factual and legal basis Plaintiffs possessed at the time they filed their FAC regarding Cargill's practices, damages caused by Cargill's practices and the witnesses that will provide evidence regarding Cargill's practices, knowledge and the resultant damage.

Cargill Interrogatory 9:

The Court held that Plaintiffs' initial response to this interrogatory was inadequate for failure to "describe[e] with particularity each instance of which Plaintiffs have knowledge where a Cargill entity has used poultry waste disposal practices in violation of federal and state laws and regulations." (See Order of May 17 at 8.) However, Plaintiffs' proffered supplementation of this response continues to suffer from the original defect by failing to provide any particular information about what the Cargill Defendants allegedly did or did not do. This response is inadequate and must be remedied.

Richard T. Garren
M. David Riggs
June 18, 2007
Page 4 of 5
Cargill Interrogatory 12:

Plaintiffs claim in their FAC that there is an imminent and substantial endangerment to health or the environment in fact present as a direct and proximate result of the Cargill Defendants' actions.

The Cargill Defendants require responses to Interrogatory No. 12, setting out the factual basis of the Cargill Defendants' alleged actions causing an imminent and substantial endangerment to health or environment. Plaintiffs' responses are not sufficient to assist the Cargill Defendants in understanding Plaintiffs' allegations against the Cargill entities. Please respond with specificity as to the Cargill entities' action or inactions, the contributions by the Cargill entities, and the witnesses to sponsor such testimony.

Cargill Interrogatory 13:

Plaintiffs' proffered supplemental response to Cargill interrogatory 13 – which the Court held was initially inadequate for failure to “describe[e] with particularity each instance of which Plaintiffs have knowledge where a Cargill entity has created or maintained a nuisance in the state of Oklahoma” – likewise fails. (See Order of May 17 at 9.) Plaintiffs' supplemental responses continue to suffer from the original defect by failing to provide any particular information about what the Cargill Defendants allegedly did or did not do. This response is inadequate and must be remedied.

Rule 11 requires a basis for allegations against a party. We appreciate that some information is being gathered for and analyzed by experts. However, even expert opinion must be grounded in relevant facts and law. We are requesting the factual and legal basis for the Plaintiffs' allegations regarding the Cargill Defendants' avoidance of costs associated with managing and disposing of poultry waste. We are requesting the evidence that Plaintiffs had at the time of filing the FAC or any or facts (not expert opinion) identified subsequent to that filing. What costs were allegedly avoided; how were they avoided; and who provided the information? Further, what is the amount of the economic benefit that Plaintiffs allege each Cargill Defendant received as a result of Plaintiffs' alleged avoidance of costs associated with the disposal and management of the poultry waste?

Plaintiffs also allege that the state of Oklahoma's rights were violated and that it incurred expenses as a result of the Cargill Defendants' economic benefit. Please provide a table of the expenses allegedly incurred as a result of the Cargill Defendants' economic benefit.

Cargill Interrogatory 14:

Interrogatory 14 simply asks Plaintiffs for the names of the witnesses and the facts possessed by Plaintiffs to establish the Cargill Defendants' alleged nuisance under state and federal law. Please supplement this response with specificity as to acts of the Cargill Defendants (or any Cargill entity) for which Plaintiffs have a factual basis and the witnesses that possess that information.

Richard T. Garren

M. David Riggs

June 18, 2007

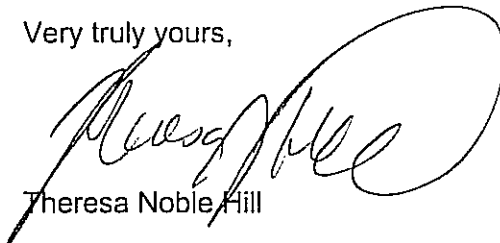
Page 5 of 5

Cargill Interrogatories 15 and 16:

Plaintiffs' supplemental responses are deficient in the manner that the preceding responses are deficient. These Interrogatories again look for the factual basis for allegations in the FAC against the Cargill Defendants.

In conclusion, the Cargill Defendants are concerned that at this late date, with a Scheduling Order in place, Plaintiffs have still not identified any witnesses who will testify to the facts nor any documents that support the facts specifically as to the Cargill Defendants.

Very truly yours,

A handwritten signature in black ink, appearing to read "Theresa Noble Hill", written over a large, loopy circular flourish.

Theresa Noble Hill

TNH:law